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OFFICE OF
INSURANCE COMMISSIONER

REPLY TO:
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INSURANCE BUILDING
OLYMPIA, WASHINGTON 98504
753-7300, AREA CODE 206

BULLETIN

No. 87-6

December 21 , 1987

Subject: ITEMS RELATING TO ADVERTISING AND MARKETING OF LIFE AND
HEALTH (INCLUDING MEDICARE SUPPLEMENT) INSURANCE

ITEM I. Many insurance companies are advertising their life and health insurance products over television, other news media and direct mail. We are regularly asked about the quality of such promotional advertisements, and it is our duty to see that all such advertisements which are received by Washington residents are in compliance with applicable law.

As you know, we have in the past taken action against some companies, particularly those advertising for Medicare supplement insurance, where we felt that the advertisement used was contrary to law and not in the public's best interest. With regard to some such television advertisements, for example, the companies made use of misleading statistics to frighten consumers into purchasing their Medicare supplement products. We are equally concerned with representations- or omissions - made in television advertisements for life insurance.

We are continuing to scrutinize these advertisements of life and health insurance and we would hope that you too will look carefully at the type of advertising which you or your agents are presenting. As WAC 284-23-040 (1) and (2) require, an advertisement must be truthful, it must not be misleading either in fact or implication, and it must be complete enough to avoid deception. Advertisements must be analyzed in terms of overall impression.

In your review of your advertising please be mindful of Washington's requirements governing life and health insurance advertising, such as:

RCW 48.30.040, which provides that no person shall knowingly make, publish or disseminate any false, deceptive or misleading representation or advertising relative to the business of insurance.

WAC 284-23-010 through -130 and 284-50-010 through -230, our Washington Life and Disability Insurance Regulations, include many important rules such as 284-50-050 which provides that the format and content of an advertisement shall be sufficiently complete and clear to avoid deception or the capacity or tendency to mislead or deceive the person of average education or intelligence within the segment of the public to which it is directed. This is determined from the overall impression that the advertisement may be reasonably expected to create upon that person.

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ITEM 2. In anticipation of the approaching new year, we remind you of item 4 in Bulletin 87-4 issued September 24, 1987. Notices have been distributed through the print media and direct mail which overemphasize or misrepresent "changes in Medicare." We do not object to current and accurate information being distributed. We do object to "new-for-1987" type announcements which falsely describe a "new Medicare payment system announced by the federal government to be effective in 1987" when the actual Medicare changes may be modest or nonexistent. Obviously, the purpose is to get the recipients' attention by creating an undue concern in the minds of the consumers regarding changes for the new year.

We expect that such announcements regarding changes for 1988 will be moderate, accurate and factual. Both the advertising entity and companies affiliated with the advertisement are responsible for compliance with this rule.

ITEM 3. It has come to our attention that companies or their agents are encouraging consumers to replace their Medicare supplement or major medical coverage with catastrophic hospital expense policies and/or hospital indemnity policies which offer reduced coverage the magnitude of which is not readily apparent to the consumer. Companies and their agents accomplish such replacement by telling consumers that the catastrophic hospital expense policy and/or hospital indemnity policy will provide the same coverage as the Medicare supplement or major medical policy, or by failing to completely and accurately explain the consequences of such replacement. In other words, major hospitalization policies are being sold as the equal of major medical policies, and "twisting" is taking place. This of course is detrimental to the consumer. We will not tolerate this activity by companies or by the agents who represent them.

With regard to advertising and marketing of insurance, if an insurer has appointed an agent to act for it, the insurer will generally be responsible - along with the agent - for that agent's actions performed within the scope of the agent's authority, even though the agent was activated by fraudulent intent. We appreciate the fact that the majority of our licensed companies and agents are of the highest caliber, however those which are not are harmful to the public interest and we intend to protect our consumers by every available means.

We look forward to your cooperation in ensuring quality advertising and marketing for Washington residents.

DICK MARQUARDT
Insurance Commissioner